

# HOUSE BILL No. 1523

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 2-3.5-5; IC 5-10.2-2-3.

**Synopsis:** Investment selections. Permits members of the legislators' defined contribution fund to change investment selections not more than twice each calendar month with three days notice and requires the public employees' retirement fund (PERF) board to implement the change: (1) on the first day of the next month, for changes made after April 30, 2003; and (2) by the next business day, for changes made after September 31, 2003. Requires the PERF board to value each alternative investment program in the legislators' defined contribution fund at the end of each calendar quarter, including contributions received and benefits paid during the quarter. Requires that contributions be credited to the legislators' defined contribution fund at least quarterly. Permits members of the teachers' retirement fund (TRF) and PERF to change investment selections not more than twice each calendar month with three days notice and requires the boards of the retirement funds to implement the change: (1) on the first day of the next month, for changes made after June 30, 2004; and (2) by the next business day, for changes made after December 31, 2004. Requires PERF and TRF to: (1) report to the pension management oversight commission (PMOC) during the 2003 and 2004 interims on the implementation of the changes; and (2) certify to PMOC if the changes to PERF and TRF cannot be completed by December 31, 2004.

**Effective:** Upon passage; July 1, 2003.

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**Dobis, Whetstone, Grubb**

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January 16, 2003, read first time and referred to Committee on Labor and Employment.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1523

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A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 2-3.5-5-3, AS AMENDED BY P.L.13-2001,  
2       SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       UPON PASSAGE]: Sec. 3. (a) The PERF board shall establish  
4       alternative investment programs within the fund, based on the  
5       following requirements:

6           (1) The PERF board shall maintain at least one (1) alternative  
7           investment program that is an indexed stock fund and one (1)  
8           alternative investment program that is a bond fund.

9           (2) The programs should represent a variety of investment  
10          objectives.

11          (3) The programs may not permit a member to withdraw money  
12          from the member's account, except as provided in section 6 of this  
13          chapter.

14          (4) All administrative costs of each alternative program shall be  
15          paid from the earnings on that program.

16          (5) A valuation of each member's account must be completed as  
17          of the last day of each quarter, **and if a member makes a new**



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**investment selection during a quarter, the day before the effective date of the member's selection.**

(b) A member shall direct the allocation of the amount credited to the member among the available alternative investment funds, subject to the following conditions:

(1) A member may make a selection or change an existing selection under rules established by the PERF board. The PERF board shall allow a member to make a selection or change any existing selection ~~at least once each quarter.~~ **not more than twice each calendar month by providing three (3) days written notice to the PERF board of the new selection.**

(2) The PERF board shall implement the member's selection **beginning not later than:**

**(A) for selections made or changed after April 30, 2003, the first day of the next calendar quarter month that begins at least thirty (30) three (3) days; or**

**(B) for selections made or changed after September 30, 2003, the next business day;**

after the selection is received by the PERF board. This date is the effective date of the member's selection.

(3) A member may select any combination of the available investment funds, in ten percent (10%) increments.

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in accordance with the member's direction, based on the market value on the effective date.

(6) If a member does not make an investment selection of the alternative investment programs, the member's account shall be invested in the PERF board's general investment fund.

(7) All contributions to the member's account shall be allocated as of the last day of the quarter in which the contributions are received in accordance with the member's most recent effective direction. ~~The PERF board shall not reallocate the member's account at any other time.~~

**(8) After April 30, 2003, each time the PERF board implements the member's investment selection as described in subsection (b)(2), the PERF board shall send the member a written confirmation that the selection or change was made.**

(c) When a member transfers the amount credited to the member from one (1) alternative investment program to another alternative

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investment program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection. When a member retires, becomes disabled, dies, or withdraws from the fund, the amount credited to the member shall be the market value of the member's investment as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or withdrawal, plus contributions received after that date.

(d) The PERF board shall determine the value of each alternative program in the defined contribution fund, as of the last day of each calendar quarter, as follows:

(1) The market value shall ~~exclude~~ **include** the employer contributions and employee contributions received during the quarter ending on the current ~~allocation~~ **quarter end** date.

~~(2) The market value as of the immediately preceding quarter end date shall include the employer contributions and employee contributions received during that preceding quarter.~~

~~(3) (2) The market value as of the immediately preceding quarter end date shall exclude~~ **include** benefits paid from the fund during the quarter ending on the current quarter end date.

SECTION 2. IC 2-3.5-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. Each participant shall make contributions to the defined contribution fund of five percent (5%) of each payment of salary received for services after June 30, 1989. Contributions shall be deducted from the salary of each participant by the auditor of state. **For contributions made after June 30, 2003,** contributions shall be credited to the fund ~~on the June 30 following their deduction.~~ **not later than the last day of the quarter in which the contributions were deducted.**

SECTION 3. IC 2-3.5-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **After June 30, 2003,** the state shall make ~~contributions~~ **an annual contribution in four (4) installments credited** to the defined contribution fund on behalf of each participant ~~on or before September 30, December 31, March 31, and June 30 of each year.~~ **The amount of each installment must equal twenty percent (20%) of the amount of the annual salary paid to each participant during the quarter.** The total amount of ~~these~~ **the** contributions must equal twenty percent (20%) of the annual salary received in that year by each participant for services after June 30, 1989.

SECTION 4. IC 5-10.2-2-3, AS AMENDED BY P.L.285-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2003]: Sec. 3. (a) The annuity savings account consists of:

- (1) the members' contributions; and
- (2) the interest credits on these contributions in the guaranteed fund or the gain or loss in market value on these contributions in the alternative investment program, as specified in section 4 of this chapter.

Each member shall be credited individually with the amount of the member's contributions and interest credits.

(b) Each board shall maintain the annuity savings account program in effect on December 31, 1995 (referred to in this chapter as the guaranteed program). In addition, the board of the Indiana state teachers' retirement fund shall establish and maintain a guaranteed program within the 1996 account. Each board may establish investment guidelines and limits on all types of investments (including, but not limited to, stocks and bonds) and take other actions necessary to fulfill its duty as a fiduciary of the annuity savings account, subject to the limitations and restrictions set forth in IC 5-10.3-5-3 and IC 21-6.1-3-9.

(c) Each board shall establish alternative investment programs within the annuity savings account of the public employees' retirement fund, the pre-1996 account, and the 1996 account, based on the following requirements:

- (1) Each board shall maintain at least one (1) alternative investment program that is an indexed stock fund and one (1) alternative investment program that is a bond fund.
- (2) The programs should represent a variety of investment objectives under IC 5-10.3-5-3.
- (3) No program may permit a member to withdraw money from the member's account except as provided in IC 5-10.2-3 and IC 5-10.2-4.
- (4) All administrative costs of each alternative program shall be paid from the earnings on that program.
- (5) A valuation of each member's account must be completed as of the last day of each quarter, **and if the member makes a new investment selection during a quarter, the day before the effective date of the member's selection.**

(d) The board must prepare, at least annually, an analysis of the guaranteed program and each alternative investment program. This analysis must:

- (1) include a description of the procedure for selecting an alternative investment program;
- (2) be understandable by the majority of members; and
- (3) include a description of prior investment performance.

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(e) A member may direct the allocation of the amount credited to the member among the guaranteed fund and any available alternative investment funds, subject to the following conditions:

(1) A member may make a selection or change an existing selection under rules established by each board. A board shall allow a member to make a selection or change any existing selection at least once each quarter. **For selections made or changed after June 30, 2004, the board shall allow a member to make a selection or change an existing selection not more than twice each calendar month by providing three (3) days written notice to the board of the new selection.**

(2) The board shall implement the member's selection ~~beginning~~ **not later than:**

**(A) for selections made or changed after June 30, 2004, the first day of the next calendar quarter month that begins at least thirty (30) three (3) days; or**

**(B) for selections made or changed after December 31, 2004, the next business day;**

after the selection is received by the board. This date is the effective date of the member's selection.

(3) A member may select any combination of the guaranteed fund or any available alternative investment funds, in ten percent (10%) increments.

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in accordance with the member's direction, based on:

(A) for an alternative investment program balance, the market value on the effective date; and

(B) for any guaranteed program balance, the account balance on the effective date.

All contributions to the member's account shall be allocated as of the last day of that quarter in accordance with the member's most recent effective direction. ~~The board shall not reallocate the member's account at any other time.~~

(f) When a member who participates in an alternative investment program transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program or to the guaranteed program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's

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selection. When a member who participates in an alternative investment program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be the market value of the member's investment as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus contributions received after that date.

(g) When a member who participates in the guaranteed program transfers the amount credited to the member to an alternative investment program, the amount credited to the member in the guaranteed program is computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the effective date of the transfer. When a member who participates in the guaranteed program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus any contributions received since that date plus interest since that date.

**(h) If a board determines that the changes in subsection (e) concerning:**

**(1) a member's investment selection; or**

**(2) changes in a member's investment selection;**

**cannot reasonably be completed by the dates specified in subsection (e), a board shall certify the determination to the pension management oversight commission, including the reasons why the implementation dates in subsection (e) are impracticable or not feasible and the date or dates by which the board reasonably believes that the implementation could occur.**

**SECTION 5. [EFFECTIVE UPON PASSAGE] (a) The board of trustees of the public employees' retirement fund shall implement IC 2-3.5-5-3, as amended by this act, not later than September 30, 2003.**

**(b) This SECTION expires October 1, 2003.**

**SECTION 6. [EFFECTIVE UPON PASSAGE] (a) The public employees' retirement fund shall report to the pension management oversight commission during the 2003 legislative interim and the 2004 legislative interim on the fund's plans to implement IC 2-3.5-5-3 and IC 5-10.2-2-3, both as amended by this act.**

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1       **(b) The Indiana state teachers' retirement fund shall report to**  
2       **the pension management oversight commission during the 2003**  
3       **legislative interim and the 2004 legislative interim on the fund's**  
4       **plans to implement IC 5-10.2-2-3, as amended by this act.**

5       **(c) This SECTION expires January 1, 2005.**

6       **SECTION 7. An emergency is declared for this act.**

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